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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/685,095 | 10/10/2003 | Bryce C. Waggoner | STD1200PA/41213.551 | 5499 |
| 23368 | 7590 | 08/15/2007 | EXAMINER | |
| DINSMORE & SHOHL LLP ONE DAYTON CENTRE, ONE SOUTH MAIN STREET SUITE 1300 DAYTON, OH 45402-2023 | | | NORDMEYER, PATRICIA L | |
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| | | 1772 | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|-----------------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/685,095 | WAGGONER ET AL. |
| | Examiner | Art Unit |
| | Patricia L. Nordmeyer | 1772 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION***Repeated Rejections***

1. The 35 U.S.C. 103 rejection of claims 1 – 8, 10 – 20 and 22 over Huddleston et al. (USPN 5,653,472) in view of Haas (USPN 5,785,354) and Wiebe (USPN Re. 30,786) in the office action dated February 27, 2007 is repeated as Applicant's arguments in the response dated June 27, 2007 are found to be unpersuasive. The rejection is repeated below for Applicant's convenience.

Huddleston et al. disclose a patient wristband form (Figure 1, #10) comprising a polyester ply layer having an upper surface and a lower surface made of film material (Column 5, lines 36 – 38; Column 6, lines 6 – 7), wherein the polyester film is a white polyester film (Column 3, lines 56 – 58), a release ply having an upper surface and lower surface (Column 5, lines 44 – 48) wherein said release ply having a release coating on said upper surface of said release ply (Column 5, lines 45 – 46) and wherein said transparent ply is removably mounted on said upper surface of said release ply by said pressure sensitive coating (Column 5, lines 46 – 48), a die cut in said transparent ply defining an elongated wristband (Column 5, lines 39 – 41), said label being sized to cover at least a part of said central portion of said elongated wristband so as to cover indicia printed on said wristband (Figure 1, #14) as in claims 1, 11 and 13. With regard to claims 2 and 14, the release ply is substantially larger than said transparent ply (Figure 2, #24) and further comprises a paper ply having an upper surface and a lower surface (Figure 1, #18; Column 3, lines 56 – 57) wherein said lower surface of said paper ply has a pressure sensitive adhesive coating which is used to mount the paper ply on the release

ply (Figure 2, #28)). The form contains one or more labels defined by die cuts in the paper ply (Figure 1, #14), the transparent ply is die cut to define one or more additional labels (Column 4, lines 47 – 50) and a plurality of colored labels that may be affixed to said elongated wristband (Figure 3, #16; Column 3, lines 46 – 47) as in claims 3, 4, 6, 15, 16 and 18. As in claims 5 and 17, the pressure sensitive adhesive coating on said lower surface of said transparent ply is pattern coated such that are beneath said elongated wristband central portion is free of adhesive (Column 4, lines 4 – 7). With regard to claims 7 and 19, the transparent ply and paper ply are directly adjacent each other to provide a patient wristband of substantially uniform thickness (Figures 1 and 2, #10), whereby said form may advantageously be printed by means of a laser printer or an ink jet printer in center portion of the wristband (Column 4, lines 62 – 66; Figure 1, #40). However, Huddleston et al. fail to disclose a transparent ply having an upper and lower surface, a die cut in said transparent ply defining an overlaminant label, said overlaminant label being separate from said elongated wristband and sized to cover at least a part of the central portion of the wristband so as to cover indicia printed on said coating, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink, the transparent ply comprising a ply of substantially clear polyester film material a perforation line extending there across between said top ply and said paper ply.

Haas teaches an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband made of a white adhesive material (Column 9,

lines 10 – 12; Column 10, lines 1 - 5) and the transparent ply comprising a ply of substantially clear polyester film material (Column 9, lines 12 – 14; Column 10, lines 11 – 14) for the purpose of having a surface that is capable of absorbing ink to form a display (Column 8, lines 44 – 50).

Wiebe teaches a transparent ply having an upper and lower surface (Column 4, lines 43 – 45), a die cut in said transparent ply defining an overlaminated label (Figure 4, #25), said overlaminated label being separate from said elongated wristband and sized to cover at least a part of the central portion of the wristband so as to cover indicia printed on said coating as part of a wristband (Column 4, lines 44 – 50) for the purpose of having a laminated article that protects the printed material from unauthorized tampering (Column 4, lines 60 – 67).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink and the transparent ply comprising a ply of substantially clear polyester film material in Huddleston et al. in order to have a surface that is capable of absorbing ink to form a display as taught by Haas and to have a laminated article that protects the printed material from unauthorized tampering.

2. The 35 U.S.C. 103 rejection of claims 9 and 21 over Huddleston et al. (USPN 5,653,472) in view of Haas (USPN 5,785,354), Wiebe (USPN Re. 30,786) and Charles et

al. (USPN 4,318,234) in the office action dated February 27, 2007 is repeated as Applicant's arguments in the response dated June 27, 2007 are found to be unpersuasive. The rejection is repeated below for Applicant's convenience.

Huddleston et al., as modified with Haas and Wiebe, disclose a patient wristband form comprising a transparent ply layer having an upper surface and a lower surface made of film material, a release ply having an upper surface and lower surface wherein said release ply having a release coating on said upper surface of said release ply and wherein said transparent ply is removably mounted on said upper surface of said release ply by said pressure sensitive coating, a die cut in said transparent ply defining an elongated wristband, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband and a die cut in said transparent ply defining an overlaminated label, said label being sized to cover at least a part of said central portion of said elongated wristband so as to cover indicia printed on said opaque coating. However, the modified Huddleston et al. fail to disclose said transparent ply further defines one or more circular cut holes in said elongated wristband adjacent each end thereof, whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband.

Charles et al. disclose a wristband (Column 1, lines 12 – 17) with a transparent ply (Column 9, lines 18 – 20) that further defines one or more circular cut holes (Figure 1a, #18 and 16) in said elongated wristband (Figure 1a, #4) adjacent each end thereof (Figure 1a, #6 and 8; Column 9, lines 23 – 26), whereby said elongated wristband may be

secured in place by a clasp, which engages one hole at each end of the wristband (Column 9, lines 26 – 29; Figure 6a) for the purpose of having an identification that is easy to use, easy to apply while being tamper-resistant (Column 1, lines 6 – 11).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided with a transparent ply that further defines one or more circular cut holes in said elongated wristband adjacent each end thereof, whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband in the modified Huddleston et al. in order to have an identification that is easy to use, easy to apply while being tamper-resistant as taught by Charles et al.

Response to Arguments

3. Applicant's arguments filed June 27, 2007 have been fully considered but they are not persuasive.

In response to Applicant's argument that there is no reason why a person of ordinary skill in this area of technology would combine the teachings of Huddleston and Haas with the teachings of Wiebe, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)

and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Huddleston et al, Haas and Wiebe are all directed towards wristbands that are printed or formed with the ability to convey information to the user. Therefore, it would be obvious to one of ordinary skill in the art to provide an opaque surface to print information and an outer covering of an overlaminant to protect the provided information as taught by Haas and Wiebe.

In response to Applicant's argument that Haas does not contemplate the printing of a message on an opaque ink or any other opaque layer, Huddleston et al. discloses a form may advantageously be printed by means of a laser printer or an ink jet printer in center portion of the wristband (Column 4, lines 62 – 66; Figure 1, #40). Haas teaches an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband made of a white adhesive material (Column 9, lines 10 – 12; Column 10, lines 1 - 5) for the purpose of having a surface that is capable of absorbing ink to form a display (Column 8, lines 44 – 50). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided printing on an opaque surface as Huddleston et al. discloses that a surface may be printed with a laser or ink jet printer and Haas teaches it is known to use an opaque coating a transparent ply to form a surface that is capable of absorbing ink to form a display.

In response to Applicant's argument that the combination of Huddleston, Haas and Wiebe is made possible only through a hindsight review of the references, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction

based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention to combine Huddleston et al., Haas and Wiebe as they all are directed towards wristbands,

In response to Applicant's argument that the Examiner has misconstrued both the Haas and Wiebe references and Wiebe does not have an exposed layer which can be imaged with a non-contact printer and then covered with an overlaminant label or cover layer as there are no separate overlaminant labels in Wiebe, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Huddleston et al. discloses said form may advantageously be printed by means of a laser printer or an ink jet printer in center portion of the wristband (Column 4, lines 62 – 66; Figure 1, #40). Wiebe teaches a die cut in said transparent ply defining an overlaminant label (Figure 4, #25), said overlaminant label being separate from said elongated wristband and sized to cover at least a part of the central portion of the wristband so as to cover indicia printed on said coating as part of a wristband (Column 4, lines 44 – 50). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention to combine both Huddleston et al. and Wiebe as both are directed towards wristbands, and Wiebe

teaches it is known to use a overlaminant layer to protect the printed material from unauthorized tampering (Column 4, lines 60 – 67).

Conclusion

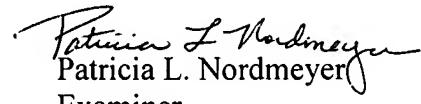
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia L. Nordmeyer
Examiner
Art Unit 1772

pln